

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

D. R. HORTON, INC.

and

MICHAEL CUDA, an individual

NLRB Case No. 12-CA-25764

**CHARGING PARTY MICHAEL CUDA'S DECLARATION IN SUPPORT OF MOTION
FOR LEAVE TO FILE LATE EXCEPTIONS TO THE ADMINISTRATIVE LAW
JUDGE'S DECISION**

Carlos Leach, Esq.
Morgan & Morgan
20 North Orange Avenue, Ste. 1600
Orlando, Florida 32801
(877) 667-4265
cleach@forthepeople.com

Counsel for Charging Party Michael Cuda

DECLARATION OF MICHAEL CUDA

I, Michael Cuda, hereby declare:

1. I am the charging party in *D.R. Horton, Inc.*, No. 12-CA-25764.
2. During proceedings before the Administrative Law Judge in *D.R. Horton, Inc.*, the General Counsel in its pleadings and presentation took the position that D.R. Horton's prohibition against the consolidation of claims and class or collective actions in its mandatory arbitration agreement violates Sections 7 and 8(a)(1) of the National Labor Relations Act.
3. The General Counsel also argued that the appropriate relief for this violation is a cease and desist order instructing D.R. Horton to no longer maintain a policy of prohibiting joint, class, and collective arbitrations; rescission of the prohibition on joint, class, and collective actions in the mandatory arbitration agreement; and notification to current and former employees that the prohibition has been rescinded.
4. Because the General Counsel had consistently stated this position, I understood that the General Counsel would maintain this position in its Exceptions and its supporting briefing to the National Labor Relations Board.
5. The General Counsel served me with its Reply Brief in Response to the Answer to its Exceptions on or about April 25, 2011. However, I did not discuss that Reply Brief with my counsel at Morgan & Morgan, who had filed the charge on my behalf but who I understand had not been served, until May 20, 2011.
6. I now realize that the General Counsel in his Reply Brief has changed his position and has narrowed the scope of relief requested.
7. In order to ensure that I receive complete relief from D.R. Horton's unlawful actions, I

wish to submit Exceptions to the ALJ's decision in support of the original position of the General Counsel in this case, which is the position I asserted in filing my charge in the first place.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 20th day of May 2011 at Melbourne, Florida.

/s/ Michael Cuda
MICHAEL CUDA

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CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2011, the foregoing document

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was served by electronic mail as follows:

ADDRESSEE

PARTY

Bernard P. Jeweler, Esq.
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
2400 N Street, N.W., Fifth Floor
Washington, D.C. 20037
Bernard.Jeweler@ogletreedeakins.com

D.R. Horton, Inc.

Mark M. Stublely, Esq.
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
300 North Main Street
Greenville, SC 29601
Mark.Stublely@ogletreedeakins.com

D.R. Horton, Inc.

John F. King
Counsel for the Acting General Counsel
National Labor Relations Board
Region 12, Miami Resident Office
51 SW 1st Avenue, Room 1320
Miami, FL 33130
john.king@nrlb.gov

NLRB General Counsel

Michael Rubin
ALTSHULER BERZON LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Telephone: (415) 421-7151
mrubin@altber.com

Amici Curiae Service
Employees International Union,
Alton Sanders, and Taylor
Bayer

Cliff Palefsky
MCGUINN, HILLSMAN & PALEFSKY
535 Pacific Avenue
San Francisco, CA 94133
Telephone: (415) 421-9292
CP@mhpsf.com

Hon. Lester Heltzer
Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, DC 20570-0001
[Electronically filed]

NLRB

/s/ Carlos Leach
Carlos Leach, Esq.
Morgan & Morgan
20 North Orange Avenue, Ste. 1600
Orlando, Florida 32801
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